

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY RAE SHANEE MALDONADO,

Plaintiff,

v.

STATE OF CALIFORNIA, *et al.*,

Defendants.

Case No. 2:21-cv-02172-KJM-JDP (PC)

AMENDED FINDINGS AND
RECOMMENDATIONS THAT
PLAINTIFF'S APPLICATION TO
PROCEED IN FORMA PAUPERIS BE
DENIED AND HE BE DIRECTED TO
TENDER THE FILING FEE IN ORDER TO
PROCEED WITH THIS ACTION

ECF No. 2

FOURTEEN-DAY DEADLINE TO FILE
OBJECTIONS

Plaintiff previously filed a complaint, ECF No. 1, and a request to proceed *in forma pauperis*, ECF No. 2. After reviewing his litigation history, I concluded that he was a “three-striker” within the meaning of Title 28 U.S.C. § 1915(g).¹ ECF No. 6. I also found that his

¹ Plaintiff has filed at least three cases that have been dismissed for failure to state a claim:

(1) *Maldonado v. Yates*, No. 1:11-cv-01735-LJO-GSA (E.D. Cal. 2013);

(2) *Maldonado v. Trimble*, No. 1:11-cv-02160-LJO-DLB (E.D. Cal. 2013); and

(3) *Maldonado v. Yates*, No. 1:11-cv-01885-AWI-JLT (E.D. Cal. Jan. 17, 2014).

I note that Judge Nunley recently adopted recommendations denying plaintiff's application to proceed *in forma pauperis* based on these three cases. *See Maldonado v. Kebler*,

1 complaint, which was largely illegible, did not make a showing of imminent danger of serious
2 physical injury. *Id.* I offered plaintiff an opportunity to amend his complaint and explain why he
3 met the exception. *Id.* Plaintiff filed a reply declining my offer and stating his desire to stand by
4 his original complaint. ECF No. 7. Accordingly, I RECOMMEND that:

5 1. Plaintiff's application to proceed *in forma pauperis*, ECF No. 2, be DENIED.

6 2. Plaintiff be directed to pay the \$402 filing fee within twenty-one days of any order
7 adopting these recommendations to proceed with this action.

8 I submit these findings and recommendations to the district judge under 28 U.S.C.
9 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
10 Eastern District of California. Plaintiff may, within 14 days of the service of the findings and
11 recommendations, file written objections to the findings and recommendations with the court.
12 That document should be captioned "Objections to Magistrate Judge's Findings and
13 Recommendations." The district judge will review the findings and recommendations under 28
14 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time may result in the
15 waiver of rights on appeal. *See Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).

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17 IT IS SO ORDERED.

18 Dated: June 13, 2022

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20 JEREMY D. PETERSON
21 UNITED STATES MAGISTRATE JUDGE
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28 No. 2:21-cv-1243-TLN-DB (E.D. Cal. 2021) at ECF Nos. 8 & 11.